

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NEW CINGULAR WIRELESS PCS, LLC, :

Plaintiff, :

v. :

No.: 06-334

KENT COUNTY :

Sussex County Courthouse :

1 The Circle :

Race and Market Street :

Georgetown, DE :

and :

KENT COUNTY DEPARTMENT OF :

PLANNING SERVICES :

Kent County Administrative Complex :

555 Bay Road :

Dover, DE :

Defendants. :

**DEFENDANTS' ANSWER**

Defendants Kent County and Kent County Department of Planning Services, by and through their undersigned attorneys, hereby file their Answer to Plaintiff's Complaint dated May 19, 2006, admitting, denying and otherwise alleging as follows (the numbered paragraphs correspond to those in Plaintiff's Complaint):

Kent County and Kent County Department of Planning Services, hereinafter referred to generally as "Kent County" denies New Cingular Wireless PCS' Complaint and seeks judgment in its favor.

1. Kent County lacks sufficient information or belief to admit or deny the

allegations in paragraph 1. regarding the formation of New Cingular Wireless PCS, LLC (hereinafter "Cingular" and on that basis denies them.

2. Admitted.

3. Admitted.

4. The averment contained in this paragraph states a legal conclusion which requires no response.

5. The averment contained in this paragraph states a legal conclusion which requires no response.

6. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

7. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

8. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

9. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

10. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

11. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

12. Kent County lacks sufficient information or belief to admit or deny the allegations in paragraph 6 and on that basis denies them.

13. Admitted.

14. Admitted

15. Admitted.

16. The averment contained in this paragraph states a legal conclusion which requires no response.

17. The averment contained in this paragraph states a legal conclusion which requires no response.

**COUNT 1 –  
TELECOMMUNICATIONS ACT**

18. The averment contained in paragraph 18 requires no response.

19. Kent County denies that the Rejection Letter does not comply with the Act. The balance of the allegation contained in paragraph 19 are admitted.

20. The averment contained in this paragraph states a legal conclusion which requires no response.

21. Denied.

**COUNT TWO –  
PREEMPTION – COMMERCE CLAUSE**

22. The averment contained in paragraph 22 requires no response.

23. The averment contained in this paragraph states a legal conclusion which requires no response.

24. The averment contained in this paragraph states a legal conclusion which requires no response.

25. The averment contained in this paragraph states a legal conclusion which requires no response.

26. Denied. The averment contained in this paragraph states a legal

conclusion which requires no response.

**COUNT THREE-  
DUE PROCESS**

27. The averment contained in paragraph 27 requires no response.

28. The averment contained in this paragraph states a legal conclusion which requires no response.

29. Denied.

Wherefore, Kent County respectfully requests this Court enter an Order dismissing Plaintiff's Complaint on all counts.

SCHMITTINGER AND RODRIGUEZ, P.A.

BY: 

NOEL E. PRIMOS, ESQUIRE (3124)  
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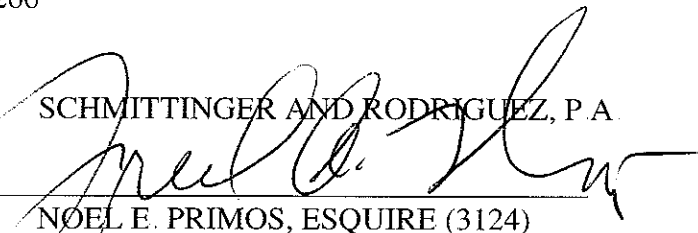
DATED: 6/12/06

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

**CERTIFICATE OF SERVICE**

I, Fred A. Townsend III, hereby certify that on June 12, 2006, the attached document was mailed to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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DATED: 6/12/06